LEE LITIGATION GROUP, PLLC

30 EAST 39TH STREET, SECOND FLOOR
NEW YORK, NY 10016
TEL: 212-465-1180
FAX: 212-465-1181
INFO@LEELITIGATION.COM

WRITER'S DIRECT: 212-465-1188
cklee@leelitigation.com

October 30, 2017

VIA ECF

Hon. Joan M. Azrack, U.S.D.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Hon. Steven I. Locke, U.S.M.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Ma, et al. v. Harmless Harvest Inc.*
Case No. 16-cv-7102

Dear Judge Azrack and Judge Locke:

We write in response to the letter of Adam E. Schulman, Esq., counsel to and co-worker of objector Anna St. John, dated October 30, 2017 (ECF Dkt. 28). We apologize for burdening the Court with additional correspondence as the Court has already clearly ruled on objector St. John's prior letter motion to expedite (see Court's Order dated October 27, 2017, denying the Motion to Expedite time to file Rule 11 motion and stating "The Court has reviewed Objector Anna St. John's Letter Motion as well as Exhibit A to the Motion, the October 23, 2017 letter to Plaintiffs' counsel. The Court will construe Exhibit A as a reply brief and will consider the substantive points raised therein in addressing St. John's objection."). However, we feel it necessary to rebut two points in Mr. Schulman's latest letter.

First, regarding the purported "overnight mail" sent by Mr. Schulman and the USPS order form attached as an exhibit to his October 30, 2017 letter, it does not rebut the undersigned's statement that no overnight mail was received as of the date of my response letter, October 26, 2017. Mr. Schulman provides no proof of delivery and, in fact, as of this date, the overnight mail has still not been received. Contrary to Mr. Schulman's statement, the documents provided only support that a mailing was sent, not that anything was actually received. After receipt of Mr. Schulman's October 30, 2017 letter with tracking information attached, I input such information to the USPS website and received information that the package was not delivered but instead said "Alert" with no further information (See Exhibit A, attached). As of October 25, the package was still listed as "out for delivery" despite the fact that it was "overnight" mailed on October 23, 2017.

Secondly, Mr. Schulman argues that the undersigned's statement that no motion was served with objector St. John's Rule 11 letter and email is "false" as he attached a "notice of

motion" to his email. The undersigned does not dispute that a "notice of motion" was attached to the email but instead argues that the Rule 11 motion itself that objector St. John requested leave to file is required to have been served to trigger the safe harbor period, which it was not. Only a "notice of motion" and a letter was served. No affidavit in support of a Rule 11 motion nor any memorandum of law was served. As stated clearly in the undersigned's October 26, 2017 response letter (ECF Dkt. 27), under Rule 11, the motion filed after the 21-day safe harbor period **must be the actual motion served at the outset**. See *Castro v. Mitchell*, 727 F. Supp. 2d 302, 306 (S.D.N.Y. 2010) (citing *Roth v. Green*, 466 F.3d 1179, 1192 (10th Cir. 2006) ("Contrary to defendants' arguments… the plain language of subsection (c) ([2]) requires a copy of the actual motion to be served on the person(s) accused of sanctionable behavior at least twenty-one days prior to the filing of that motion."), cert. denied, 552 U.S. 814 (2007)).

In view of the foregoing, and as the Court has already ruled on objector St. John's request to expedite, we do not believe any action is necessary in response to Mr. Schulman's latest letter.

Respectfully,

/s/ C.K. Lee

cc: all parties via ECF